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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,863	09/29/2006	Shoji Yuyama	2006_1250A	9780
513 7590 10/29/2010 WENDEROTH, LIND & PONACK, L.L.P. 1030 15th Street, N.W., Suite 400 East Washington, DC 20005-1503				
EXAMINER				
MAZUMDAR, SONYA				
ART UNIT		PAPER NUMBER		
1745				
NOTIFICATION DATE		DELIVERY MODE		
10/29/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com  
coa@wenderoth.com

### Office Action Summary

**Application No.**

10/587,863

**Applicant(s)**

YUYAMA ET AL.

**Examiner**

SONYA MAZUMDAR

**Art Unit**

1745

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to the rejection of claims 1-4 under 35 USC 103(a), have been considered but, in light of amendments, are moot in view of the new grounds of rejection.

Furthermore, Iijima teaches a method where the label is wrapped on the entire circumference of the container, where a holder (4) for a container moves along the outer circumference and presses the container (2) to the drum (1), keeps the posture of the container (2) in a standing state, and sticks a label (3) to the container as the container rotates and moves. As noted below, Iijima also teaches that the holder is constructed so as to hold the lateral surface of the container (2) a belt (42), as shown in Figure 3, so that the container (2) is pressed to the drum (1). Therefore, it would have been obvious that the belt (i.e. endless member) comes into contact with the label as it is being pressed onto the container (page2, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs).

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuyama (JP 2001-130504) in view of Iijima (JP 57-175545).

Yuyama teaches a labeling apparatus, comprising:

- three support rollers (92, 93), each support roller being configured to come into contact with an outer surface of a vial (11) to hold and rotate the vial, and a label comes into direct contact with the rollers and the vial;
- an arm (110) for rotatably supporting the support rollers;
- a rotation unit (76) configured to rotate the vial being held by the support rollers in a predetermined direction;
- a label supply unit (85) configured to supply labels to be attached to the outer surface of the vial; and
- a size detection member supported by a first support roller and a second support roller (92) of the three support rollers (paragraph 0038), the endless member being configured to rotate along the outer surface of the vial according to the rotation of the vial between the first support roller and the second support roller, wherein each label fed from the label supply unit comes into contact with the first support roller first, and a tip end of each label that is in an attaching process in accordance with the rotation of the vial comes into contact with the second support roller second (Drawing 13).

Yuyama does not specifically teach an endless member supported by a first support roller and a second support roller, configured to rotate along the outer surface of the container, where the label comes into contact with the endless member. However, one of ordinary skill in the art would have been motivated to do so, as Iijima teaches providing an endless belt (42) supported by two rollers and a third roller (1), shown in Figure 3, as an alternative means of supporting a container (2), shown in

Figure 2, and maintaining a container in an upright posture as it is labeled. Iijima also teaches that the label is wrapped on the entire circumference of the container, where the holder moves along the outer circumference and presses the container (2) to the drum (1) to keep the posture of the container (2) in a standing state, and sticks a label (3) to the container as the container rotates and moves (page 2, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs).

Furthermore, with respect to claims 3 and 4, Iijima teaches simultaneous contact between the endless member (42), the container (2), and the first and second support rollers, as each label (3) is in the attaching process (Iijima: Figure 3).

With respect to claim 2, Yuyama teaches providing the support rollers in a vertical orientation within a range of the height of the vial (Yuyama: Drawing 12).

4. Claims 1, 3, 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kontz (US 4,851,072) in view of Iijima.

With respect to claims 1 and 5, Kontz teaches a labeling apparatus, comprising:

- four support rollers (48, 50), each support roller being configured to simultaneously come into contact with an outer surface of a container (i.e. vial) to hold and rotate the container (12);
- a frame (44) for rotatably supporting the support rollers;
- a rotation unit configured to rotate the container being held by the support rollers in a predetermined direction;
- a label supply unit (10) configured to supply labels to be attached to the outer surface of the container; and

- a bracket (40) supported by a first support roller and a second support roller, the bracket being configured to rotate along the outer surface of the container according to the rotation of the container between the first support roller and the second support roller,

wherein each label fed from the label supply unit comes into contact with the first support roller first, and a tip end of each label that is in an attaching process in accordance with the rotation of the container comes into contact with the second support roller second (column 1, line 49 – column 2, line 12; column 2 line 48 – column 3, line 29; Figures 1 and 2).

Kontz does not specifically teach an endless member supported by a first support roller and a second support roller, configured to rotate along the outer surface of the container, where the label comes into contact with the endless member. However, one of ordinary skill in the art would have been motivated to do so, as Iijima teaches providing an endless belt (42) supported by two rollers and a third roller (1), shown in Figure 3, as an alternative means of supporting a container (2), shown in Figure 2, and maintaining a container in an upright posture as it is labeled. Iijima also teaches that the label is wrapped on the entire circumference of the container, where the holder moves along the outer circumference and presses the container (2) to the drum (1) to keep the posture of the container (2) in a standing state, and sticks a label (3) to the container as the container rotates and moves (page 2, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs).

Furthermore, with respect to claims 3 and 4, Iijima teaches simultaneous contact between the endless member (42), the container (2), and the first and second support rollers, as each label (3) is in the attaching process (Iijima: Figure 3).

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **SONYA MAZUMDAR** whose telephone number is (571)272-6019. The examiner can normally be reached on Monday-Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Tucker can be reached on (571) 272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SM

/Philip C Tucker/  
Supervisory Patent Examiner, Art Unit 1745